

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ALBERTO PATINO,
MARIA DEL ROSARIO MARTINEZ,
MARIA MARI,
RODOLFO R. TENREIRO,
PATRICIA GONZALES,

Plaintiffs,

v.

Civil Action No. 4:14-cv-03241

CITY OF PASADENA,
Mayor JOHNNY ISBELL,
Council members ORNALDO YBARRA,
BRUCE LEAMON, DON HARRISON,
PAT VAN HOUTE,
CODY RAY WHEELER, PHIL CAYTEN,
STEVE COTE, and
DARRELL MORRISON,

Defendants.

AFFIDAVIT OF CODY RAY WHEELER IN SUPPORT OF PLAINTIFFS'
RESPONSE IN OPPOSITION TO DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT

1. My name is Cody Ray Wheeler. I am over the age of eighteen and fully competent to make this declaration. I am a member of the City Council of the City of Pasadena, Texas, and make this declaration in support of Plaintiffs' Response in Opposition to Defendant's Motion for Summary Judgment. The facts stated in this declaration are based on my personal knowledge.
2. I ran for election in City Council D in 2015 and was elected.
3. I campaigned using my full name, Cody Ray Wheeler.


4. I openly identify as Latino, but no part of my name is in Spanish.
5. Anglos are the majority of the citizen voting age population and the majority of voters in District D. I believe that my non-Spanish name gave me an edge in the 2015 election because Anglo voters decide the outcome in District D. I do not believe District D is a district where Latinos have an equal opportunity to elect their preferred candidate.
6. In 2013, when Pasadena had eight single member districts, I was elected to the City Council in District E. I won by a narrow margin, even though my non-Spanish name gave me an edge in that election.
7. After the City adopted the 6-2 plan in 2014, I found myself living in District D. Compared to the districts that existed in the 8-0 plan, District D is larger in territory and population.
8. Because of the larger population and territory of District D, I had to spend approximately \$2,500 more on my 2015 campaign than I did in my 2013 campaign. I spent \$8,086.07 on my 2015 campaign for District D.
9. I also had to work harder to be elected in 2015 than I did in my City Council campaign in 2013.
10. In both campaigns for City Council, I felt that I had to be more qualified as a candidate because I ran as a Hispanic in a majority Anglo district against an Anglo candidate. For example, I emphasized in 2015 that I was a college graduate (my Anglo opponent was not).
11. I know from reviewing campaign finance filings that leading up to the 2015 Pasadena City Council Election, Mayor Johnny Isbell's political committee, Citizens to Keep

Pasadena Strong, spent at least \$29,825 on mail advertisements and other efforts to campaign for my Anglo opponent, J.E. “Bear” Hebert.

12. Mayor Isbell’s political committee also produced and mailed negative advertisements attacking me as a candidate. The negative campaign advertisement included claims that I had turned my back on Pasadena, repeatedly “voted against our entire community,” and lied about where I lived in order to get elected. One negative advertisement by Mayor Isbell’s PAC attempted to tie me to President Barack Obama, who is African American, as well as a predominantly minority organization ACORN (“DO THE MATH: BARACK OBAMA + A.C.O.R.N. = CODY RAY WHEELER”). I believe this ad, which placed my photo near a photo of President Obama, was a “dog whistle” to Anglo voters intended to persuade them, on racial grounds, not to vote for me.
13. In 2013, the Mayor’s PAC also produced and mailed negative advertisements attacking me as a candidate when I ran in District E. I believe that these political activities by the Mayor’s PAC in 2013 and 2015 were intended to increase turnout for my Anglo opponent and decrease turnout for me among Anglo and Latino voters.
14. In the May 2015 City council election, when two council seats were being elected at-large, the City of Pasadena actively tried to increase voter turnout in the predominately Anglo area of the City, known as the South Side.
15. The City, using City staff during regular work hours, posted large signs before the election on major thoroughfares in the South Side of Pasadena. These signs read “Vote Today[...]Very Important.”
16. I did not see any such “Vote Today” signs posted by the City anywhere on the North Side of Pasadena, which is predominately Latino, including in District D.

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 29, 2016 in Pasadena, Texas.



Cody Ray Wheeler